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CITY OF NEWPORT BEACH, OFFICER DIANNE HARRIS,
and OFFICER DE LA TORRE

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

JANE DOE,

Plaintiff,

vs.

CITY OF NEWPORT BEACH,
CUSTODY OFFICER DIANNE
HARRIS, NEWPORT BEACH
POLICE OFFICER DE LA TORRE,
DOES 1 through 10, inclusive,

Defendants.

No. 8:15-cv-00608 JAK (KES)

**DEFENDANTS' OPPOSITION TO
PLAINTIFF'S *EX-PARTE*
APPLICATION FOR LEAVE TO
AMEND COMPLAINT;**

Date : Under Submission
Time : Under Submission

///

DEFENDANTS' OPPOSITION TO PLAINTIFF'S *EX-PARTE* APPLICATION
FOR LEAVE TO AMEND COMPLAINT

MEMORANDUM OF POINTS AND AUTHORITIES

I. INTRODUCTION AND FACTS

Throughout this litigation Plaintiff has had a custom and habit of not only intentionally delaying in this litigation, but intentionally failing to timely file noticed motions for the sole purpose of seeking *ex-parte* relief and seeking to impede Defendants' ability to oppose those motions. This *ex-parte* is no different.

There are no exigent circumstances that exist and Plaintiff has identified none. Plaintiff is solely at fault for creating the "crisis" which she claims justifies *ex-parte* relief - she fully admits that she informed the Court on November 24, 2015 that she was going to amend her Complaint. (Dkt. No. 107, 5:1-6; Dkt. No. 86, 9:21-28). In fact, Plaintiff also claimed she would amend her complaint on November 6, 2015 (Dkt. No. 76, 3:23-25) and testified at deposition of October 21, 2015, nearly a month earlier, that she was going to amend her complaint. (Christiansen Decl., **Exhibit A**, 323:18-21).

This Court even continued the date to amend the Complaint to January 15, 2015 to accommodate the Plaintiff. (Dkt. No. 84, Last Page).

Plaintiff cannot seek *ex-parte* relief when she is the party solely responsible for creating the alleged "crisis" necessitating *ex-parte* relief. *Mission Power Eng'g Co. v. Cont'l Cas. Co.*, 883 F. Supp. 488, 492 (C.D. Cal. 1995).

Further, there are no grounds for providing Plaintiff leave to amend. *Fed. R. Civ. P.* Rule 15 states that "[t]he court should freely give leave when justice so requires." (Emphasis added). However, the proposed amendments are entirely unnecessary, irrelevant and improper. Plaintiff's main purpose in seeking to amend is to avoid discovery on her mental distress claims - it also appears that Plaintiff is seeking to amend the complaint to comport with the video evidence as opposed to her deposition testimony. This is not proper and cannot be allowed.

1 In addition to all of this, Plaintiff was informed by counsel that her non-
 2 dispositive motion should be filed before the magistrate judge and not before
 3 Judge Kronstadt, yet she refused and intentionally filed her non-dispositive motion
 4 before the district judge (See Christiansen Decl.) which will likely lead to
 5 additional delay.

6 Plaintiff's *ex-parte* is without merit and must be DENIED.

7 **II. PLAINTIFF HAS CREATED HER OWN EXIGENT**
 8 **CIRCUMSTANCES AND HER REQUEST FOR *EX-PARTE* RELIEF**
 9 **MUST BE DENIED ON THAT BASIS ALONE**

10 "What showing is necessary to justify *ex parte* relief? First, the evidence
 11 must show that the moving party's cause will be irreparably prejudiced if the
 12 underlying motion is heard according to regular noticed motion procedures.
 13 Second, **it must be established that the moving party is without fault in**
 14 **creating the crisis that requires *ex parte* relief.**" *Mission Power Eng'g Co.* at
 15 488. (Emphasis added.)

16 Plaintiff has no excuse here. At her deposition of October 21, 2015,
 17 Plaintiff testified that she would be amending her complaint. (Christiansen Decl.,
 18 **Exhibit A**, 323:18-21). She informed the Court of such on November 6, 2015
 19 (Dkt. No. 76, 3:23-25) and again on November 24, 2015 (Dkt. No. 86, 9:21-28).

20 This Court even extended the time by which Plaintiff could seek leave to
 21 amend her Complaint until January 15, 2015. (Dkt. No. 84, Last Page).

22 Plaintiff did not seek leave to amend her Complaint. Instead, Plaintiff
 23 waited until Monday, January 11, 2015 - only four (4) days before that January 15,
 24 2015 date - to seek *ex-parte* relief from this Court.

25 The record is clear - Plaintiff testified nearly 3 months ago that she intended
 26 to amend her complaint and was granted an extension to do so by this Court yet
 27 intentionally delayed in doing so and now seeks *ex-parte* relief from this Court for
 28 her own intentional delay. The *ex-parte* must be DENIED for this reason alone.

1 **III. THERE ARE NO EXIGENT CIRCUMSTANCES OR CLAIM OF**
 2 **IRREPARABLE INJURY SUFFICIENT FOR THE GRANTING OF**
 3 **RELIEF BECAUSE THE PROPOSED AMENDMENT IS IMPROPER**

4 Plaintiff's sole excuse for seeking *ex parte* relief is that she "will suffer
 5 irreparable injury" based upon the January 15, 2016 cutoff date for seeking leave
 6 to amend the complaint. (Dkt. No. 107, 2:8-10). Not only is Plaintiff solely
 7 responsible for creating the intentional delay, as set forth above, that the date for
 8 amendment will pass is not "irreparable injury" absent more.

9 Plaintiff's proposed amendments, and the reasons they are not necessary or
 10 are wholly improper, are as follows:

11 (1) Plaintiff proposes to add the fact that the Defendant City of Newport
 12 Beach neglected to interview Defendant Custody Officer Harris to support her
 13 negligence claim (Dkt. No. 75, 2:12-17). This is an unnecessary change, Plaintiff
 14 has already alleged negligence and to the extent that this is something learned in
 15 discovery - this is a fact to be argued at trial, not by an amendment to the
 16 complaint;

17 (2) Plaintiff proposes to add that Plaintiff did not see Harris put on gloves,
 18 but was already gloved (Dkt. No. 75, 2:17-3:1), this is because Plaintiff has
 19 already been impeached on this fact at deposition and is seeking to change her
 20 story. (Christiansen Decl., **Exhibit A**, 320:16-23, 329:1-23). Further, this change
 21 is unnecessary to support any cause of action alleged;

22 (3) Plaintiff proposes to add that Harris did not remove Plaintiff's
 23 underpants but instead only pulled them down (Dkt. No. 75:1-3). The Complaint
 24 already alleges that the underpants were pulled down and not off (Dkt. No. 15,
 25 ¶15), this is a non-issue;

1 **A. Most Importantly, Plaintiff cannot Now Amend to Avoid**
2 **Discovery in Contradiction of the Alleged Facts and Her Own**
3 **Sworn Deposition Testimony**

4 Finally, (4) Plaintiff proposes to “eliminate her claims of ‘ongoing’
5 emotional distress and post-traumatic stress disorder ... [and] conform her
6 Complaint to indicate that she is only claiming ‘garden variety’ emotional
7 distress.” (Dkt. No. 107, 4:26-5:4). Plaintiff is admittedly trying to do this in an
8 attempt to avoid discovery on her claims by seeking to “reflect ... that Plaintiff
9 Jane Doe’s mental state is not in controversy.” (Dkt. No. 107: 4:26-5:1).

10 This cannot be allowed - while Plaintiff can conform her Complaint to the
11 facts, she cannot alter her Complaint for the sole purpose of seeking to avoid
12 discovery.

13 In the present matter, Plaintiff’s Complaint alleges that “Plaintiff was
14 traumatized by the violation of her person, and has been and will continue to be
15 treated for trauma-related injuries, according to proof.” (Dkt. No. 15,
16 ¶25)(emphasis added).

17 Plaintiff goes on to allege that she “was traumatized, humiliated and
18 otherwise harmed ... requiring treatment for trauma and post-traumatic stress
19 syndrome” (Dkt. No. 15, ¶31)(emphasis added) and that she “has suffered and
20 continues to suffer trauma from Defendants.” (Dkt. No. 15, ¶¶49, 53).

21 Plaintiff’s alleged trauma is so egregious that she is also seeking punitive
22 damages. (Dkt. No. 15, ¶¶27, 33; Dkt. No. 15, 8:24).

23 Plaintiff has also testified at deposition that she suffered traumatic
24 emotional distress and was diagnosed by her psychiatrist in August 2014 with
25 PTSD as a direct result of the alleged incident. (See Dkt. No. 103, Exhibit A,
26 Pages 106-111 and 370-371).

27 Plaintiff even set forth in a prior motion that after discussing the incident
28 and viewing the tapes with her psychiatrist on October 28, 2015 that she “has been

1 disturbed by the tape ... [and] has relived the horror of the sexual battery.” (See
 2 Dkt. No. 100, Motion Under Seal, 7:5-10). In effect alleging that she suffers
 3 trauma from the incident nearly a year and a half afterwards.

4 Plaintiff’s alleged plan is that she wants to “conform her Complaint to
 5 indicate that she is only claiming ‘garden variety’ emotional distress and not any
 6 ongoing distress, including trauma ... [and] does not seek to introduce expert
 7 testimony or medical records to support her claims.” (Dkt. No. 107, 4:26-5:5).

8 However, the Court in *Redon v. Ruiz*, 2015 U.S. Dist. LEXIS 163801 (S.D.
 9 Cal. 2015) **rejected this exact theory.**

10 In *Redon*, as in this matter, “[t]o prevent a waiver of the privilege, [Plaintiff]
 11 had agreed not to introduce any expert testimony at trial about his emotional
 12 suffering and to limit evidence of emotional distress to the negative emotions he
 13 experienced as a result of the defendant’s alleged misconduct, such as humiliation
 14 and embarrassment. He also agreed to exclude evidence of physical symptoms he
 15 may have experienced, such as sleeplessness, nervousness, or depression.” *Redon*
 16 at *25. This is nearly identical to what Plaintiff seeks to do in the present matter.

17 “However, **the plaintiff’s deposition testimony was inconsistent with his**
 18 **claim of “garden variety” emotional distress** ... As a result, the District Court
 19 concluded the plaintiff’s symptoms, as expressed in his deposition testimony,
 20 exceeded a ‘garden variety’ claim of emotional damages.” *Redon* at *25-26.
 21 (Emphasis added).

22 “[P]laintiff raises more than a ‘garden variety’ claim of emotional distress.
 23 Under these circumstances, he has waived the psychotherapist/patient privilege as
 24 to his mental condition for a reasonable time prior to the incidents alleged in the
 25 Complaint to the present ... **defendants are entitled to discovery documents and**
 26 **information about plaintiff’s mental health to ensure a fair resolution of the**
 27 **case.**” *Redon* at *29. (Emphasis added).

28 The holding of the Court in *Redon* is directly applicable to the present

1 matter. Like the Plaintiff in *Redon*, the Plaintiff here made allegations beyond that
 2 of “garden variety” emotional distress in her Complaint and testified to such in her
 3 deposition. In order to avoid disclosure of those documents the Plaintiff in *Redon*
 4 sought to do exactly what the Plaintiff here is seeking to do - amend the complaint
 5 as if those prior allegations and deposition testimony never existed - she cannot.

6 As such, Plaintiff cannot amend her Complaint in the manner she seeks and
 7 her *ex parte* application must be DENIED.

8 **VI. CONCLUSION**

9 A couple of things are very clear in this matter - Plaintiff does not want to
 10 cooperate in discovery and Plaintiff knows the version of events presented to this
 11 Court is frivolous, events now supported by her sworn deposition testimony.

12 As set forth and argued above, Plaintiff purposefully and intentionally
 13 delayed in seeking to amend her Complaint and is the sole cause of any alleged
 14 exigent circumstances or irreparable harm. Her *ex parte* request must be denied
 15 on this fact alone.

16 Further, Plaintiff’s proposed amendments are unnecessary, improper and
 17 downright frivolous. Plaintiff cannot now take back not only what she has alleged
 18 in her Complaint, but has testified to in her sworn deposition testimony (and in
 19 discovery responses).

20 Plaintiff’s *ex parte* motion must be DENIED and her duplicative motion
 21 (Dkt. No. 109) should be denied and/or stricken.

22
 23 DATED: January 12, 2016

FERGUSON, PRAET & SHERMAN, APC

24 /s/ Allen Christiansen

Allen Christiansen SBN 263651

25 Attorneys for Defendants City of Newport Beach,
 26 Officer Dianne Harris and Officer De La Torre

1 **DECLARATION OF ALLEN CHRISTIANSEN**

2 I, ALLEN CHRISTIANSEN, declare as follows:

3 1. I am an attorney at law authorized to practice law before all the courts of
4 the State of California, the State of Hawaii and the United States Supreme Court
5 and am an associate at the Law Offices of Ferguson, Praet & Sherman, A
6 Professional Corporation, which is the attorney of record for the Defendant City of
7 City of Newport Beach, Dianne Harris and Officer De La Torre. The following
8 declaration is made from personal knowledge and if I were called upon as a
9 witness, I could and would competently testify under oath to the facts stated below
10 in this declaration.

11 2. Attached hereto as **Exhibit A** is a true and correct copy of portions of
12 Plaintiff's deposition transcript of **October 21, 2015**, using redacted pages by
13 Court order for portions thereof as required, wherein Plaintiff alleges that she
14 intends to amend her Complaint nearly 3 months ago.

15 3. I personally spoke with Plaintiff on January 11, 2015 in she sought to
16 give me notice regarding her intent to file an *ex parte* application for leave to
17 amend her Complaint. During that meet and confer, Plaintiff indicated that she
18 was filing the motion with District Judge Hon. Kronstadt. I informed Plaintiff that
19 being a *pro per* with a non-dispositive motion that it should be filed with the
20 magistrate, but Plaintiff stated she would file it with the District Judge despite
21 being informed of such.

22
23 I declare under penalty of perjury under the laws of the State of California
24 that the foregoing declaration is true and correct. Executed January 12, 2016 at
25 Santa Ana, California.

26
27 /s/ Allen Christiansen

28 ALLEN CHRISTIANSEN

DEFENDANTS' OPPOSITION TO PLAINTIFF'S *EX-PARTE* APPLICATION
FOR LEAVE TO AMEND COMPLAINT

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EXHIBIT A

DEFENDANTS' OPPOSITION TO PLAINTIFF'S *EX-PARTE* APPLICATION
FOR LEAVE TO AMEND COMPLAINT

Jane Doe

10/21/2015

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

JANE DOE,)	
)	
Plaintiff,)	
)	
vs.)	Case No.: SACV15-00608 JAK
)	(RNBx)
CITY OF NEWPORT BEACH,)	
CUSTODY OFFICER DIANNE HARRIS,)	
NEWPORT BEACH POLICE OFFICER)	
DE LA TORRE, DOES 1 through)	
10, inclusive,)	
)	
Defendants.)	
_____)	

VIDEOTAPED DEPOSITION OF JANE DOE
WEDNESDAY, OCTOBER 21, 2015, 10:19 A.M.
SANTA ANA, CALIFORNIA

Reported by Jenny Craig, CSR No. 11094
Job No. 15270

Jane Doe

10/21/2015

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UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

JANE DOE,)
)
Plaintiff,)
)
vs.) Case No.: SACV15-00608 JAK
) (RNBx)
CITY OF NEWPORT BEACH,)
CUSTODY OFFICER DIANNE HARRIS,)
NEWPORT BEACH POLICE OFFICER)
DE LA TORRE, DOES 1 through)
10, inclusive,)
)
Defendants.)
_____)

VIDEOTAPED DEPOSITION of JANE DOE, taken at
1631 East 18th Street, Santa Ana, California, on
Wednesday, October 21, 2015, at 10:19 a.m., before
Jenny Craig, Certified Shorthand Reporter, in and for
the State of California.

Jane Doe

10/21/2015

1 APPEARANCES:

2 For Plaintiff:

3 JANE DOE
4 In Pro Per
5 220 Newport Center Drive, 11-233
6 Newport Beach, California 92660
7 (949) 355-3437
8 janedoe919@icloud.com

9 For Defendants:

10 FERGUSON, PRAET & SHERMAN
11 BY: ALLEN CHRISTIANSEN
12 Attorney at Law
13 1631 East 18th Street
14 Santa Ana, California 92705
15 (714) 953-5300
16 achristiansen@law4cops.com

17 The Videographer: MARK HOWARD
18 Thrust Productions, Inc.

19 Also Present: Sergeant William Depweg
20 Officer Antonio De La Torre
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Jane Doe

10/21/2015

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INDEX

WITNESS: Jane Doe

EXAMINATION

PAGE

By Mr. Sherman

8

INFORMATION REQUESTED

(None)

QUESTIONS NOT ANSWERED

(None)

TRANSCRIPT MARKED

(None)

* * *

Jane Doe

10/21/2015

1	INDEX TO EXHIBITS		
2	EXHIBITS		MARKED
3	Exhibit A	Defendants' Third Amended Notice of	16
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* * *

Jane Doe

10/21/2015

1 WEDNESDAY, OCTOBER 21, 2015, 10:19 A.M.

2 SANTA ANA, CALIFORNIA

09:47

3
4 THE VIDEOGRAPHER: Good morning. We are on the
5 record.

6 This is the video recorded deposition of
7 Jane Doe in the matter of Jane Doe versus City of
8 Newport Beach, et al., case number SACV15-00608 JAK
9 (RNBx).

10 This deposition is taking place at the law
11 offices of Ferguson, Praet & Sherman located at 1631
12 East 18th Street, Santa Ana, California, on Wednesday
13 October 21st, 2015, at 10:19 a.m.

14 My name is Mark Howard. I'm the
15 videographer representing Thrust Productions, Inc.,
16 in Laguna Niguel, California. Video and audio
17 recording will be taking place unless all counsel
18 have agreed to go off the record.

19 Would all present please identify themselves
20 beginning with the witness.

21 MS. DOE: I am Jane Doe and I am plaintiff in
22 pro se.

23 MR. SHERMAN: Good morning. Steven Sherman on
24 behalf of defendants. I have with me Officer De La
25 Torre and Sergeant --

Jane Doe

10/21/2015

10:20 1 SERGEANT DEPWEG: Depweg.
10:20 2 MR. SHERMAN: -- Depweg. Thank you.
10:20 3 THE VIDEOGRAPHER: The certified court reporter
10:20 4 today is Jenny Craig.
10:20 5 Would you please swear in the witness.
10:20 6
10:20 7 JANE DOE,
10:20 8 having been first duly sworn, testifies as follows:
10:20 9 THE WITNESS: Yes.
10:20 10 MR. SHERMAN: Yes?
10:20 11 THE WITNESS: May I ask you a question?
10:20 12 MR. SHERMAN: Certainly. Usually we don't do
10:20 13 this, but go ahead.
10:20 14 THE WITNESS: Sergeant Depweg is not a
10:20 15 defendant.
10:20 16 MR. SHERMAN: Actually, he's a City
10:20 17 representative so the City is a named defendant.
10:21 18 You -- you've named -- I'll -- I'll tell you what,
10:21 19 why don't we go a little into the record and then
10:21 20 anything you'd like to say in that regard we can
10:21 21 cover, okay?
10:21 22 THE WITNESS: Okay.
10:21 23 ///
10:21 24 ///
10:21 25 ///

Jane Doe

10/21/2015

05:54 1 Q Okay. Well, what did you recall before you
05:54 2 saw the tape?

05:54 3 A I recalled myself in a room with Officer
05:54 4 De La Torre doing some sort of booking procedure or
05:54 5 something and then Defendant Harris appeared and I
05:54 6 saw her with gloves come towards me.

05:54 7 Q This was after you were already in the room?

05:54 8 A I thought I was in some sort of room. I --
05:54 9 I -- I had thought I was in some sort of room.

05:54 10 Q But upon review of the videotape, you have
05:54 11 subsequently discovered that isn't correct; is that
05:54 12 correct?

05:54 13 A On review of the videotape, it is possible
05:54 14 that I saw her coming towards me when she entered
05:55 15 into the garage area, gloved.

05:55 16 Q Well, and let's talk about the glove. In
05:55 17 your complaint and in your various discovery
05:55 18 responses, you put down that you observed Officer
05:55 19 Harris glove up, do you recall that, put gloves on?

05:55 20 A I don't recall saying that she put gloves
05:55 21 on. What I remember her doing was sort of going like
05:55 22 this with her -- I don't recall if she was actually
05:55 23 putting gloves on or -- or smoothing the gloves.

05:55 24 Q Okay. So you're not really sure what it was
05:55 25 that you observed?

Jane Doe

10/21/2015

05:59 1 Q I'm going to do that, but this is going to
05:59 2 go with it, okay.

05:59 3 So -- so what I'm going to show you is --
05:59 4 I've ripped off the first page, but I'm going show
05:59 5 you a redacted dec- -- not declaration, a redacted
05:59 6 complaint which I've marked as Defendants' Exhibit H.

05:59 7 A What paragraph do you want me to look at?

05:59 8 Q Well, before we get there, what I'd like you
05:59 9 to look at is that complaint and verify for us that
05:59 10 that is, in fact, a true and correct copy of your
05:59 11 complaint consisting of nine pages.

06:00 12 Does that look familiar to you?

06:00 13 A Yes. So far I'm on page 4.

06:00 14 Q That's something you drafted yourself;
06:00 15 correct?

06:00 16 A Yes.

06:00 17 Q Okay.

06:00 18 A And it's not perfect. I -- I know that at
06:00 19 some point I'm going to have to file an amended
06:00 20 complaint when I know who Does are and --

06:00 21 Q That's fine.

06:00 22 A -- you know so --

06:00 23 Q I'm only trying to establish that that's the
06:00 24 complaint that's on file presently.

06:00 25 Does that look familiar to you? Yes?

Jane Doe

10/21/2015

06:07 1 Q And -- and let me ask you this, so when it
06:07 2 says on page 3, line 27, paragraph 13 that we've just
06:07 3 read into the record, "Harris put on gloves..."
06:07 4 that's an incorrect statement; correct?

06:07 5 A That may be an incorrect statement.

06:07 6 Q What do you mean by that? I thought you
06:07 7 just told me that she -- you did not see her put on
06:07 8 gloves. You saw her straightening out her gloves.
06:07 9 You can't have it --

06:07 10 A I am certain --

06:07 11 Q -- both ways.

06:07 12 A -- that I saw her going like this with her
06:07 13 gloves and I'm --

06:07 14 Q And just for the record, you're stroking
06:07 15 your -- from your fingertips down your wrists and --

06:07 16 A Well, I -- I can't say exactly how -- how
06:07 17 she did it with her -- what she did to the gloves,
06:07 18 but I saw her actively touching her hands that were
06:07 19 gloved so that I was aware that she was gloved.

06:08 20 Q Okay. Did you actually see her applying the
06:08 21 hand gloves to herself?

06:08 22 A At this moment, I don't recollect that I
06:08 23 did.

06:08 24 Q But when you drafted this complaint, you had
06:08 25 a recollection that she did?

Jane Doe

10/21/2015

1 REPORTER'S CERTIFICATION

2
3 I, Jenny Craig, Certified Shorthand Reporter in
4 and for the State of California do hereby certify:
5

6 That the foregoing witness was by me duly sworn;
7 that the deposition was then taken before me at the time
8 and place herein set forth; that the testimony and
9 proceedings were reported stenographically by me and later
10 transcribed into typewriting under my direction; that the
11 foregoing is a true record of the testimony and
12 proceedings taken at that time.
13

14 IN WITNESS WHEREOF, I have subscribed my name,
15 this date: November 4, 2015.
16
17
18

19 
20 _____
21 Jenny Craig, CSR No. 11094
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23
24
25

PROOF OF SERVICE

STATE OF CALIFORNIA, COUNTY OF ORANGE

I, Coleen Ludvigson, am employed in the aforesaid County, State of California; I am over the age of 18 years and not a party to the within action. My business address is 1631 East 18th Street, Santa Ana, California 92705-7101.

On January 12, 2016, I served the foregoing **DEFENDANTS' OPPOSITION TO PLAINTIFF'S EX-PARTE APPLICATION FOR LEAVE TO AMEND COMPLAINT; DECLARATION OF ALLEN CHRISTIANSEN IN SUPPORT THEREOF**; on the interested parties in this action:

Jane Doe
220 Newport Center Drive 11-233
Newport Beach, CA 92660
janedoe919@icloud.com
Pro Se Plaintiff

____ (By Mail) I placed such envelope for deposit in accordance with office practice, sealed, with postage thereon fully paid and the correspondence to be deposited in the United States mail at Santa Ana, California on the same day.

____ (By Facsimile Service) I caused such envelope/document to be delivered via facsimile to the office of the addressee.

XXX (By e-filing) The above noted individuals are registered with the Court to receive notice of electronically filed documents. Per ECF rules, hard copies must be served only on parties who are not set up for electronic notification.

____ (By e-mail) Plaintiff has communicated with Defendants via the above listed email address and has requested that Defendants serve Plaintiff documents via email at that email address.

XXX (Federal) I declare under penalty of perjury that the foregoing is true and correct, and that I am employed in the office of a member of the bar of this Court at whose direction the service was made.

Executed on January 12, 2016, at Santa Ana, California.

/s/ Coleen Ludvigson

Coleen Ludvigson